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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 110303179-1290-02]

RIN 0648-XA926

Fisheries of the Northeastern United States; Spiny Dogfish Fishery; Commercial Period 2 Quota Harvested

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure of spiny dogfish fishery.

SUMMARY: NMFS announces that the spiny dogfish commercial quota available to the coastal states from Maine through Florida for the second semi-annual quota period, November 1, 2011-April 30, 2012, has been harvested. Therefore, effective 0001 hours, January 13, 2012, federally permitted spiny dogfish vessels may not fish for, possess, transfer, or land spiny dogfish until May 1, 2012, when the 2012 spiny dogfish fishing year begins. Regulations governing the spiny dogfish fishery require publication of this notification to advise the coastal states from Maine through Florida that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no Federal commercial quota is available for landing spiny dogfish in these states. This action is necessary to prevent the fishery from exceeding its Period 2 quota and to allow for effective management of this stock.

DATES: Effective at 0001 hr local time, January 13, 2012, through 2400 hr local time April 30, 2012.

FOR FURTHER INFORMATION CONTACT: Carly Bari, (978) 281-9224, or
Carly.Bari@noaa.gov.

SUPPLEMENTARY INFORMATION: Regulations governing the spiny dogfish fishery are found at 50 CFR part 648, subpart L. The regulations require annual specification of a commercial quota, which is allocated into two quota periods based upon percentages specified in the fishery management plan. The fishery is managed from Maine through Florida, as described in § 648.230.

The initial total commercial quota for spiny dogfish for the 2011 fishing year is 20 million lb (9,071.85 mt) (76 FR 32874, June 7, 2011). The commercial quota is allocated into two periods (May 1 through October 31, and November 1 through April 30). Vessel possession limits are set at 3,000 lb (1.36 mt) per trip for both Quota Period 1 and 2. Quota Period 1 is allocated 11,580,000 lb (5,252.6 mt), and Quota Period 2 is allocated 8,420,000 lb (3,819.25 mt) of the commercial quota. The total quota cannot be exceeded, so landings in excess of the amount allocated to Period 1 have the effect of reducing the quota available to the fishery during Period 2.

The Administrator, Northeast Region, NMFS (Regional Administrator), monitors the commercial spiny dogfish quota for each quota period and, based upon dealer reports, state data, and other available information, determines when the total commercial quota will be harvested. NMFS is required to publish notification in the Federal Register advising and notifying commercial vessels and dealer permit holders that, effective upon a specific date, the Federal spiny dogfish commercial quota has been harvested and no Federal commercial quota is available for landing spiny dogfish for the remainder of that quota period.

Section 648.4(b) provides that Federal spiny dogfish permit holders agree, as a condition of the permit, not to land spiny dogfish in any state after NMFS has published notification in the Federal Register that the commercial quota has been harvested and that no commercial quota for the spiny dogfish fishery is available. Therefore, effective 0001 hr local time, January 13, 2012, landings of spiny dogfish in coastal states from Maine through Florida by vessels holding commercial Federal fisheries permits will be prohibited through 2400 hr local time, April 30, 2012. The 2012 Period 1 quota will be available for commercial spiny dogfish harvest on May 1, 2012. Effective January 13, 2012, federally permitted dealers are also advised that they may not purchase spiny dogfish from vessels issued Federal spiny dogfish permits that land in coastal states from Maine through Florida.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest. This action closes the spiny dogfish fishery until May 1, 2012, under current regulations. The regulations at § 648.231 require such action to ensure that the spiny dogfish 2011 Period 2 quota is not exceeded. Data indicating the spiny dogfish fleet will have landed the 2011 Period 2 quota have only recently become available. If implementation of this closure is delayed to solicit prior public comment, the quota for Period 2 will be exceeded, thereby undermining the conservation objectives of the FMP. The AA further finds, pursuant to

5 U.S.C. 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

Authority: 16 U.S.C. 1801 et seq.

Dated: January 9, 2012

Steven Thur,
Acting Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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